

## REMARKS

Claims 17-20 have been amended to correct typographical errors. No new matter is presented.

### I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect **Invention I, claims 1-16 and 22-29**, in response to the preliminary restriction requirement set forth in the Office Action and identify claims reading on the Inventions as follows:

Invention I      Claims 1-16, 22-29

Invention II     Claims 17, 20

Invention III    Claims 18, 19, 21

### II. Applicants Traverse the Requirement

The Examiner considers Inventions I and II-III to be related as subcombinations disclosed as usable together in a single combination, and considers these inventions to be distinct pursuant to MPEP 806.05(d) because “they do not overlap in scope and are not obvious variants” and because “subcombination I has separate utility such as being used with a recording method or apparatus that records tracking polarity and/or reflectivity in the lead-in or data area of the optical disc.”

Furthermore, the Examiner considers Inventions II and I-III to be related as subcombinations disclosed as usable together in a single combination, and considers these inventions to be distinct pursuant to MPEP 806.05(d) because “they do not overlap in scope and are not obvious variants” and because “subcombination II has separate utility such as recording on an optical disc that does not have a clamping or lead-in area.”

Finally, the Examiner considers Inventions III and I-II to be related as subcombinations disclosed as usable together in a single combination, and considers these inventions to be distinct pursuant to MPEP 806.05(d) because “they do not overlap in scope and they are not obvious variants” and because “subcombination III has separate utility such as reproducing from an optical disc that does not have a clamping or lead-in area.”

However, it is believed that claims 17 and 20 of Invention II and claims 18, 19 and 21 of Invention III are so closely related to elected claims 1-16 and 22-29 of Invention I that they should remain in the same application. Claims 1-16 and 22-29 (Invention I) are directed towards

an optical disc which stores disc-related information, such as tracking information and reflectivity information, in a burst-cutting area (BCA). Similarly, claims 17 and 20 (Invention II) and claims 18, 19, and 21 (Invention III) are respectively directed towards a recording and reproducing method using disc-related information stored in the BCA of an optical disc. All three Inventions I-III share the common feature of using disc-related information stored in the BCA. Restricting these three closely-related Inventions, which are all directed towards using disc-related information stored in the BCA of an optical disc, places a substantial and unreasonable burden on the applicants.

There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing the subcombination claims in the same field of technology. While it is noted that the Examiner has identified different subclassifications for the subcombination claims, it is believed that subclassification is not conclusive on the question of restriction. As noted on page 2, item 1 of the Office Action, Inventions I, II and III all fall within class 369. It is believed, moreover, that evaluation of all three sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Invention II and Invention III claims by filing divisional applications.

To reiterate, when considering that all three Inventions I-III are classified together (class 369), that all three Inventions relate to using disc-related information stored in the BCA of an optical disc, and that the Examiner has not shown any reason why examining the three closely related Inventions found in claims 1-29 together will cause an undue burden on the Examiner, applicants strongly urge the Examiner to withdraw the restriction requirement.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

### III. Conclusion

Upon review of references involved in this field of technology, when considering that the apparatus recited by elected claims 1-16 and 22-29 is directed towards an optical disc, claims 17 and 20 are directed towards a disc-recording method using disc related information stored in the

BCA of an optical disc, and claims 18, 19, and 21 are directed towards a disc-reproducing method using disc-related information stored in the BCA of an optical disc, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

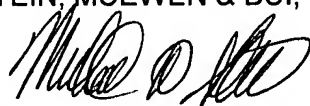
If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

Date: 10/4/06

By:   
Michael D. Stein  
Registration No. 37,240

1400 Eye St., NW., Ste 300  
Washington, D.C. 20005  
Telephone: (202) 216-9505  
Facsimile: (202) 216-9510